

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Mike C. Henderson,

Case No. 22-cv-345 (KMM/LIB)

Plaintiff,

v.

Katle Mack; C/O Martin; T. Hamerrick;  
Kim Ebeling Sletten; Dradder, Property  
Room; and Minnesota Department of  
Correction, All Agencies That Are  
Involved in Torts (Unknown),

**ORDER**

Defendants.

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This matter is before the Court on Plaintiff Mike Henderson's application to proceed *in forma pauperis* ("IFP") on appeal. [ECF No. 28]. On July 7, 2022, the Court adopted the Report and Recommendation of Magistrate Judge Leo I. Brisbois and dismissed this case with prejudice. [ECF No. 18]. Mr. Henderson seeks to appeal that dismissal and to do so without paying the \$500 appellate filing fee.

Under 28 U.S.C. § 1915, this Court may authorize a party to proceed without prepayment of fees, costs, or security, on the affidavit of the party testifying that he is unable to pay such costs, describing the nature of the appeal and his belief that he is entitled to redress. According to this statute, which is part of the Prison Litigation Reform Act of 1995 ("PLRA"), prisoners who are granted IFP status are not excused from paying the court filing fee altogether, as is the case for non-prisoner IFP litigants. Instead, a prisoner who is granted IFP status is merely granted permission to pay the

filing fee in installments, rather than paying the entire amount in advance. *Ashley v. Dilworth*, 147 F.3d 715, 716 (8th Cir. 1998) (“The purpose of the [PLRA] was to require all prisoner-litigants to pay filing fees in full, with the only issue being whether the inmate pays the entire filing fee at the initiation of the proceeding or in installments over a period of time.”).

Based on a review of Mr. Henderson’s submission, he is entitled to IFP status on appeal. However, to pursue the appeal, he must first pay an initial partial appellate filing fee of \$28.17. *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997). This fee represents 20% of the average monthly deposits in Mr. Henderson’s trust account over the six-month period preceding the filing of his notice of appeal. *See* 28 U.S.C. § 1915(b)(1)(A); [ECF No. 28 at 6]. The remainder of the filing fee shall be paid in monthly installments as set forth in § 1915(b)(2).

Accordingly, **IT IS HEREBY ORDERED that:**

1. Plaintiff’s Application to proceed IFP on Appeal [ECF No. 28] is **GRANTED**; and
2. Plaintiff is required to pay an initial partial appellate filing fee of \$28.17.

Date: September 6, 2022

s/ Katherine M. Menendez

Katherine M. Menendez  
United States District Judge